



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

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August 19, 2003

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The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**RESOLUTION VACATING AND SETTING ASIDE CERTIFICATION OF THE  
ENVIRONMENTAL IMPACT REPORT FOR THE WEST CREEK PROJECT,  
SUSPENDING ALL PROJECT ACTIVITY THAT COULD RESULT IN AN  
ADVERSE CHANGE TO THE PHYSICAL ENVIRONMENT AND  
REQUIRING FURTHER ACTIONS IN COMPLIANCE WITH CEQA  
(FIFTH SUPERVISORIAL DISTRICT) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

Adopt the attached resolution vacating and setting aside certification of the Final Environmental Impact Report for the West Creek Project, suspending project activity that could adversely change or alter the physical environment, and providing for additional water supply and demand analyses to be undertaken in accordance with a court order.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of this action is to request that your Board adopt a resolution to comply with a court order issued in litigation challenging land use approvals which your Board had previously issued.

On September 26, 2000, your Board certified the Final Environmental Impact Report ("EIR") prepared in connection with General and Sub-Plan Amendments No. 98-008-(5), Zone Change Case No. 98-008-(5), Conditional Use Permit No. 98-008-(5), Oak Tree Permit No. 98-008-(5), Parking Permit No. 98-008-(5), and

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Vesting Tentative Tract Map No. 52455 (the "Project Approvals") for the proposed mixed-use West Creek development in the unincorporated Santa Clarita Valley area of the Fifth Supervisorial District. Final action granting the Project Approvals was taken by your Board on December 19, 2000. The approvals were challenged by the Santa Clarita Organization for Planning the Environment and Friends of the Santa Clara River (together referred to as "Petitioners") in a lawsuit which alleged violation of the California Environmental Quality Act ("CEQA") and violation of the County's General Plan.

This lawsuit was first heard by the Honorable Thomas P. Anderle of the Santa Barbara Superior Court. On January 10, 2002, Judge Anderle issued a Judgment in favor of the County, and the Petitioners in the lawsuit then filed an appeal. On February 27, 2003, the Second District Court of Appeal reversed the trial court's Judgment and remanded the matter for further proceedings consistent with its published opinion (*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715).

In June 2003, in accordance with the Court of Appeal's instructions, the trial court vacated its prior Judgment and issued a new Judgment in favor of Petitioners. The trial court ordered the County to vacate and set aside its certification of the West Creek EIR and to take further actions, consistent with the Court's order, the provisions of CEQA, and the views expressed by the Court of Appeal in its published opinion.

Adoption of the attached resolution is necessary to implement the Court's order. The resolution directs County staff to take the necessary actions to address the issues specified by the Court including the scheduling of hearings before the Regional Planning Commission and your Board following completion of a revised environmental document.

The resolution further suspends project activities that could result in an adverse change or alteration to the physical environment, until the issues identified by the Court have been fully addressed.

**Implementation of Strategic Plan Goals**

This recommended action is not applicable to strategic plan goals since your Board is complying with a Court order.

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### **FISCAL IMPACT/FINANCING**

There is no direct fiscal impact associated with the requested action. County staff time will be required to address the issues required by the Court's ruling.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The proposed West Creek Project ("Project") is a mixed-use development located on an approximately 966.6-acre site in the northern portion of unincorporated Los Angeles County, within the Santa Clarita Planning Area. The proposed Project consists of 2,545 dwelling units; two neighborhood commercial developments with approximately 180,000 square feet of building area; an elementary school site; water tank sites; private recreational sites; a 15.4-acre public park; and landscaped/paseo areas.

Approximately 558 acres, or 58 percent of the site, will be substantially undeveloped natural open space. The Regional Planning Commission conducted hearings on the Project, which took place over three separate sessions. Your Board conducted its own multi-day hearing on the Project and granted the Project Approvals.

The Court's order requires the County to vacate and set aside certification of the West Creek EIR and revise the water supply analysis.

The order issued by the Court is included as Exhibit "1" to the attached resolution.

A revised environmental document addressing the issues specified by the Court will be prepared and circulated for public and agency review, and additional hearings are contemplated before the Regional Planning Commission and your Board in connection with the required analysis. The Court will retain jurisdiction over the Project in order to review the County's further analysis and actions on the Project.

### **IMPACTS ON CURRENT SERVICES (OR PROJECTS)**

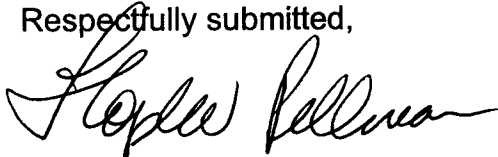
The requested action will not affect current services or other projects.

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**ENVIRONMENTAL DOCUMENTATION**

The requested action provides for a revised environmental document to be prepared in connection with the proposed Project to address the specific water supply and demand issues deemed necessary by the Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lloyd W. Pellan", written over the typed name.

LLOYD W. PELLMAN  
County Counsel

**Attachment**

c: David E. Janssen  
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer  
Board of Supervisors

James E. Hartl, Director  
Department of Regional Planning

**RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF LOS ANGELES  
VACATING AND SETTING ASIDE CERTIFICATION  
OF THE ENVIRONMENTAL IMPACT REPORT FOR THE  
WEST CREEK PROJECT, SUSPENDING ALL PROJECT ACTIVITY  
THAT COULD RESULT IN AN ADVERSE CHANGE TO THE  
PHYSICAL ENVIRONMENT AND REQUIRING FURTHER ACTIONS IN  
COMPLIANCE WITH CEQA**

**WHEREAS**, applicants, The Newhall Land and Farming Company and Valencia Corporation (hereafter, collectively, "Newhall"), submitted applications to the Department of Regional Planning of the County of Los Angeles ("the County") for General Plan And Sub-Plan Amendments No. 98-008-(5), Zone Change Case No. 98 008-(5), Conditional Use Permit No. 98-008-(5), Oak Tree Permit No. 98-008-(5), Parking Permit No. 98-008-(5), and Vesting Tentative Tract Map No. 52455 (hereafter, collectively, "Project Approvals") for the project entitled "West Creek" ("West Creek Project"); and

**WHEREAS**, the West Creek Project is located on an approximately 966.6-acre site in the northern portion of unincorporated Los Angeles County and within the County's Santa Clarita Valley Planning Area; and

**WHEREAS**, the Project Approvals would allow for a proposed mixed residential and commercial development in the Santa Clarita Valley area of northern Los Angeles County; and

**WHEREAS**, in conjunction with preparation of the Project Approvals, and in accordance with the California Environmental Quality Act (Pub. Resources Code § 21000 *et seq.* ["CEQA"]) and the State CEQA Guidelines (14 Cal. Code Regs. §15000 *et seq.* ["the Guidelines"]), the County caused to be prepared the West Creek Environmental Impact Report ("West Creek EIR"; SCH No. 98-021052); and

**WHEREAS**, after preparation and public circulation of the West Creek EIR, the County Regional Planning Commission conducted public hearings regarding the West Creek EIR and the Project Approvals on June 16, 1999; August 23, 1999; and October 4, 1999; and

**WHEREAS**, on May 24, 2000, the Regional Planning Commission recommended certification of the West Creek EIR and adoption of the Project Approvals; and

**WHEREAS**, the Board of Supervisors duly considered the decisions and recommendations of the Regional Planning Commission, the public testimony for and against the West Creek Project, the recommendations and testimony of both the Department of Regional Planning and Department of Public Works, and the West Creek EIR and related documents, including the documentation within the files of both departments; and

**WHEREAS**, the Board of Supervisors also conducted public hearings regarding the West Creek EIR and the Project Approvals on August 22, 2000, and September 26, 2000; and

**WHEREAS**, on September 26, 2000, the Board of Supervisors certified the West Creek EIR; and

**WHEREAS**, on December 19, 2000, the Board of Supervisors: (a) adopted CEQA Findings and a Statement of Overriding Considerations; (b) approved the Mitigation Monitoring Plan; and (c) adopted the Project Approvals; and

**WHEREAS**, on January 30, 2001, the Santa Clarita Organization for Planning the Environment and the Friends of the Santa Clara River ("Petitioners") filed a petition for writ of mandate challenging the County's certification of the West Creek EIR and the Project Approvals ("the West Creek Litigation"); and

**WHEREAS**, on January 10, 2002, after a hearing before the Honorable Thomas P. Anderle of the Santa Barbara Superior Court, the trial court ("the Court") issued a Judgment in favor of the County and Newhall denying the petition in the West Creek Litigation, and the Petitioners then filed an appeal of that Judgment; and

**WHEREAS**, on February 27, 2003, the Second District Court of Appeal reversed the Court's Judgment and remanded the matter for further proceedings consistent with its published opinion (*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715); and

**WHEREAS**, in June 2003, after a remand hearing, the Court issued a new Judgment granting a peremptory writ of mandate in favor of Petitioners and vacating the Court's prior Judgment filed on January 10, 2002; and, as discussed below, the

Court ordered the County to vacate and set aside in its entirety its certification of the West Creek EIR and to take further actions, consistent with the Court's writ, the provisions of CEQA, and the views expressed by the Court of Appeal in its published opinion ("Writ"); and

**WHEREAS**, a true and correct copy of the Court's Writ is attached hereto as Exhibit "1" and incorporated herein by this reference; and

**WHEREAS**, the Court's Writ directs the County and its Board of Supervisors to do the following:

- (a) Vacate and set aside in its entirety its certification of the West Creek EIR;
- (b) Revise the water supply analysis in the West Creek EIR to include the issues presented in the Court of Appeal's published opinion, including, at a minimum, accurate availability, reliability, and supply estimates for the State Water Project ("SWP") water in wet, average, and dry years, which estimates must be obtained from the Department of Water Resources ("DWR");
- (c) Revise and reassess the West Creek EIR's cumulative impacts analysis for water supply and demand, and any and all analysis contained in the West Creek EIR related to water supply and demand;
- (d) Recirculate the revised West Creek EIR for public review and comment. If there are comments on the revised West Creek EIR, then adequate and detailed responses must be prepared for such comments, as required under Public Resources Code section 21092.5 and consistent with the Court of Appeal's published opinion;
- (e) In preparing the revised West Creek EIR, the County must make clear in the revised water supply analysis that SWP entitlements are not equivalent to actual deliveries of water;
- (f) Suspend all project activity that could result in an adverse change or alteration to the physical environment, until the County has certified that the revised West Creek EIR complies with CEQA;
- (g) Refrain, until such time as the County has certified the revised West Creek EIR, from issuing any and all permits, certificates, or other final

authorizations that will result in any change to the physical environment within the West Creek Project site;

- (h) Refrain, until such time as the County has certified the revised West Creek EIR, from doing any work that will effect any change to the physical environment within the West Creek Project site; and

**WHEREAS**, the Court's Writ further directs the County, its Board of Supervisors and others as follows:

- (a) Any permits issued in conjunction with the approval of other projects will not be affected by suspension of the West Creek Project activities. Thus, to the extent ongoing property maintenance or work on the Rio Norte School or Decoro Drive Bridge does not rely upon Project Approvals, those activities will not be subject to the suspension. However, if a permit was not issued in conjunction with the West Creek Project, but relied upon the certification of the West Creek EIR, then use of that permit is precluded under the injunction in the Writ;
- (b) Newhall shall provide fifteen (15) working days' notice to Petitioners in the West Creek Litigation before commencing any and all work, under any permit or approval, within the boundaries of the Significant Ecological Area ("SEA") for the San Francisquito Creek within the West Creek Project site;
- (c) The County shall file a return to the Writ within twenty (20) days following the date on which the County has filed and posted its Notice of the Determination on the revised West Creek EIR; Petitioners' responding brief, if any, to the County's return shall be filed within twenty (20) days following the date on which the County files its return; the County's reply brief, if any, shall be filed within fifteen (15) days following the date on which Petitioners file their response to the County's return, if any; all parties shall serve one another by facsimile and overnight mail; and the hearing on the return shall be held on the second Friday following the date on which the County is scheduled to file its reply brief, or such other date as the Court shall dictate; and



**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Los Angeles hereby:

1. Vacates and sets aside in its entirety its certification of the West Creek EIR;
2. Directs that the water supply analysis in the West Creek EIR be revised to include the issues presented in the Court of Appeal's published opinion, including, at a minimum, accurate availability, reliability, and supply estimates for SWP water in wet, average and dry years, which estimates must be obtained from the DWR;
3. Directs that the West Creek EIR's cumulative impacts analysis for water supply and demand, and any and all analysis contained in the West Creek EIR related to water supply and demand be reassessed and revised as appropriate;
4. Directs that the revised West Creek EIR be recirculated for public review and comment. If there are comments on the revised EIR, then adequate and detailed responses must be prepared for such comments, as required under Public Resources Code section 21092.5 and consistent with the Court of Appeal's published opinion;
5. Directs that, in preparing the revised West Creek EIR, the revised water supply analysis must make clear that SWP entitlements are not equivalent to actual deliveries of water;
6. Suspends all project activity that could result in an adverse change or alteration to the physical environment, until the County has certified a revised West Creek EIR in compliance with CEQA;
7. Directs that County Counsel file a return to the Writ within twenty (20) days following the date on which the County has filed and posted its Notice of the Determination on the revised West Creek EIR.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Board of Supervisors of the County of Los Angeles hereby acknowledges that:

1. Until such time as the County has certified a revised West Creek EIR, the County is hereby enjoined from issuing any and all permits, certificates, or

other final authorizations that will result in any change to the physical environment within the West Creek Project site;

2. Until such time as the County has certified the revised EIR, the County and Newhall are enjoined from doing any work that will effect any change to the physical environment within the West Creek Project site except as provided below;
3. Any permits issued in conjunction with the approval of other projects will not be affected by suspension of the West Creek Project activities. Thus, to the extent ongoing property maintenance or work on the Rio Norte School or Decoro Drive Bridge does not rely upon West Creek Project Approvals, those activities will not be subject to the suspension. However, if a permit was not issued in conjunction with the West Creek Project, but relied upon the certification of the West Creek Final EIR, then the Board directs that use of that permit is precluded;
4. Newhall has agreed to provide fifteen (15) working days' notice to the Petitioners in the West Creek Litigation before commencing any and all work, under any permit or approval, within the boundaries of the Significant Ecological Area ("SEA") for the San Francisquito Creek within the West Creek Project site;
5. Petitioners' responding brief, if any, to the County's return shall be filed within twenty (20) days following the date on which the County files its return; the County's reply brief, if any, shall be filed within fifteen (15) days following the date on which Petitioners file their response to the County's return, if any; all parties shall serve one another by facsimile and overnight mail; and the hearing on the return shall be held on the second Friday following the date on which the County is scheduled to file its reply brief, or such other date as the Court shall dictate; and

6. Pursuant to Public Resources Code section 21168.9, that the Court retains jurisdiction over this matter by way of the return to the Writ until such time as the Court has determined that the County has certified a revised West Creek EIR that complies with the provisions of CEQA, and is consistent with the views expressed by the Court of Appeal in its published decision.

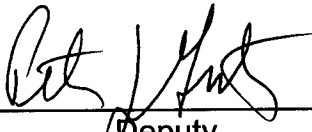
The foregoing resolution was on  
the \_\_\_\_ day of \_\_\_\_\_, 2003,  
adopted by the Board of Supervisors of the County  
of Los Angeles and ex officio of the governing body  
of all other special assessment and taxing districts,  
agencies and authorities for which said Board so acts.

VIOLET VARONA-LUKENS, Executive Officer-  
Clerk of the Board of Supervisors of the  
County of Los Angeles

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

LLOYD W. PELLMAN  
County Counsel

By:  \_\_\_\_\_  
Deputy

FILED

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BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA**

SANTA CLARITA ORGANIZATION FOR	)	CASE NO. 1043805
PLANNING THE ENVIRONMENT, and	)	
FRIENDS OF THE SANTA CLARA RIVER,	)	<b>PEREMPTORY WRIT OF</b>
	)	<b>MANDATE</b>
Petitioners,	)	
v.	)	
THE COUNTY OF LOS ANGELES, a political	)	
subdivision of the state of California; and DOES 1	)	
through 20, inclusive,	)	
	)	
Respondents.	)	
_____	)	
NEWHALL LAND AND FARMING COMPANY, a)	)	
California Limited Partnership; et al,	)	
	)	
Real Parties in Interest.	)	
_____	)	

Judgment having been entered in this proceeding in favor of Petitioners SANTA CLARITA ORGANIZATION FOR PLANNING THE ENVIRONMENT and FRIENDS OF THE SANTA CLARA RIVER, said Judgment ordering that a Peremptory Writ of Mandate be issued from this

1 Court,

2 NOW THEREFORE IT IS HEREBY ORDERED that, immediately upon service of this  
3 Writ, Respondent COUNTY OF LOS ANGELES shall do the following:

4 1. The County is ordered to vacate and set aside in its entirety the certification, made on  
5 September 26, 2000, of the Environmental Impact Report for the West Creek project (hereinafter  
6 "EIR"). The water supply analysis in the EIR shall be revised to include the issues in the Court of  
7 Appeal decision, including, at a minimum, accurate availability, reliability and supply estimates for  
8 State Water Project water in wet, average and dry years, which estimates must be obtained from  
9 the Department of Water Resources. The County must also revise and re-assess the EIR's  
10 cumulative impacts analysis for water supply and demand, and must revise and re-assess any and all  
11 analysis contained in the EIR related to water supply and demand. The revised EIR shall then be  
12 re-circulated for public review and comment. If there are comments on the revised EIR, then  
13 adequate and detailed responses must be prepared for such comments, as required under Public  
14 Resources Code §21092.5 and consistent with the Court of Appeal decision in this case. The  
15 County must make clear in the revised analysis that State Water Project entitlements are not  
16 equivalent to actual deliveries of water.

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18 2. A return to this Peremptory Writ of Mandate shall be made by the County within  
19 twenty (20) days following the date on which the county has filed and posted its Notice of  
20 Determination on the revised EIR; Petitioners' responding brief, if any, to the County's return shall  
21 be filed within twenty (20) days following the date on which the County files its return; the  
22 County's reply brief, if any, shall be filed within fifteen (15) days following the date on which  
23 Petitioners file their response to the County's return, if any. All parties shall serve one another by  
24 facsimile and by overnight mail. The hearing on the return shall be held on the second Friday  
25 following the date on which the County is scheduled to file its reply brief, or such other date as the  
26 Court shall dictate.

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28 3. The Court mandates that the County and Newhall suspend all project activity that could

1 result in an adverse change or alteration to the physical environment until the County has certified  
2 an EIR in compliance with CEQA. Until such time as the County has certified the revised EIR, the  
3 County is enjoined from issuing any and all permits, certificates or other final authorizations that  
4 will result in any change to the physical environment within the West Creek project site, as  
5 defined by CEQA, and the County and Newhall are enjoined from doing any work that will effect  
6 any change to the physical environment within the West Creek project site, until such time as the  
7 County has certified the revised EIR. However, any permits issued in conjunction with the  
8 approval of other projects will not be affected by suspension of the West Creek project activities.  
9 Thus, to the extent ongoing property maintenance or work on the school or bridge does not rely  
10 upon West Creek approvals, those activities will not be prejudiced by the suspension. However, if  
11 a permit was not issued in conjunction with the West Creek project, but relied upon the  
12 certification of the West Creek EIR, then use of that permit is precluded under the injunction  
13 herein. Newhall agrees to provide fifteen working days notice to Petitioners before commencing  
14 any and all work, under any permit or approval, within the boundaries of the "SEA" (Significant  
15 Ecological Area) for the San Francisquito Creek within the West Creek project site.  
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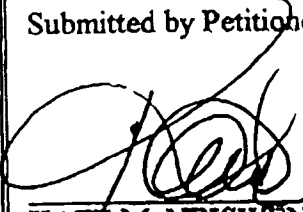
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1           4. This Court will retain jurisdiction over this matter by way of a return to this Peremptory  
2 Writ of Mandate until such time as the Court has determined that the County has certified a revised  
3 EIR for the West Creek project that complies with the provisions of the California Environmental  
4 Quality Act and is consistent with the views expressed by the Court of Appeal in its Opinion filed  
5 on February 27, 2003, in Case No. B155552, cited above.

6 DATED: June \_\_\_\_, 2003

7  
8 THE HONORABLE JAMES BROWN  
9 JUDGE OF THE SUPERIOR COURT

10 Submitted by Petitioners:

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14 KATE M. NEISWENDER, Attorney for  
15 Petitioners


16 APPROVED AS TO FORM:

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18  
19 PETER GUTIERREZ  
20 Los Angeles County Counsel's Office  
21 For Respondent COUNTY OF LOS ANGELES

22  
23  
24 ROBERT I. McMURRY  
25 NOSSAMAN, GUTHNER, KNOX & ELLIOT  
26 For Real Parties in Interest  
27 NEWHALL LAND AND FARMING and  
28 VALENCIA CORPORATION

4 This Court will retain jurisdiction over this matter by way of a return to this Peremptory  
 Writ of Mandate until such time as the Court has determined that the County has certified a revised  
 EIR for the West Creek project that complies with the provisions of the California Environmental  
 Quality Act and is consistent with the views expressed by the Court of Appeal in its Opinion filed  
 on February 27, 2003, in Case No. B155552, cited above.


DATE: June 27, 2003


  
 THE HONORABLE JAMES BROWN  
 JUDGE OF THE SUPERIOR COURT

Submitted by Petitioners:

KATE M. NEISWENDER, Attorney for  
 Petitioners

APPROVED AS TO FORM:

  
 PETER GUTIERREZ  
 Los Angeles County Counsel's Office  
 For Respondent COUNTY OF LOS ANGELES

  
 ROBERT L. McMURRY  
 NOESAMAN, GUTHNER, KNOX & ELLIOTT, LLP  
 For Real Parties in Interest  
 NEWHALL LAND AND FARMING and  
 VALENCIA CORPORATION

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